

**JUDGE ROBINSON**

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
By: KATHLEEN A. ZEBROWSKI  
Assistant United States Attorney  
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New York, New York 10007  
Telephone No.: (212) 637-2710  
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**07 CV 7374**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA,

Plaintiff,

- v. -

KEVIN J. SHORTALL,

Defendant.  
-----X

VERIFIED COMPLAINT

07 Civ.

**FILED**  
U.S. DISTRICT COURT  
2007 AUG 17 PM 4:19  
S.D. OF N.Y.

Plaintiff United States of America (the "United States"), by and through its attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, alleges upon information and belief that:

1. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. § 1345.
2. Defendant Kevin J. Shortall (the "defendant") resides at 512 Burlingham Road, Burlingham, NY 12722, within the Southern District of New York.

FIRST CAUSE OF ACTION

3. Defendant applied for and received a student loan from the lender whose name is set out in the defendant's promissory note(s) evidencing the loan, copies of which are annexed hereto as Exhibit A and incorporated herein.
4. Defendant defaulted on said note(s) and owes the amount said note(s) and interest.

5. The United States is the assignee and present holder of said note(s).

6. The amount due and owing plaintiff by defendant on said note(s) is \$42,837.72, plus interest in the amount of \$33,046.46, as of August 15, 2007, with interest accruing thereafter at the rate of 9 percent per annum. A Certificate of Indebtedness from the United States Department of Education is annexed hereto as Exhibit B and incorporated herein.

### SECOND CAUSE OF ACTION

7. Plaintiff repeats and realleges the allegations contained in paragraphs numbered one through six.

8. Plaintiff insured the aforementioned note(s) pursuant to Title IV of the Higher Education Act of 1965, Public Law 89-329.

9. The lender made an insurance claim on the United States for the amount of the lender's loss arising from the defendant's default on said note(s), which claim has been paid by the United States to the lender.

10. Plaintiff is entitled to be indemnified by defendant in the amount of \$75,884.18 as of August 15, 2007, with interest accruing thereafter at the rate of 9 percent per annum.

WHEREFORE, plaintiff demands judgment against defendant in the amount of \$75,884.18 plus interest as provided by law to the date of judgment and interest from the date of judgment at the legal rate until paid in full, together with costs and disbursements and for such other and further relief as this Court deems just and proper.

Dated: New York, New York

August 15, 2007

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
Attorney for the Plaintiff

By: 

KATHLEEN A. ZEBROWSKI  
Assistant United States Attorney  
86 Chambers Street  
New York, New York 10007  
Telephone No.: (212) 637-2710

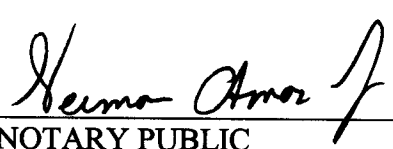
VERIFICATION

STATE OF NEW YORK )  
COUNTY OF NEW YORK : ss.:  
SOUTHERN DISTRICT OF NEW YORK )

KATHLEEN A. ZEBROWSKI, being duly sworn, deposes and says that she is an Assistant United States Attorney in the office of Michael J. Garcia, United States Attorney for the Southern District of New York, that she has read the foregoing complaint, and that the same is true and accurate to the best of her knowledge and belief.

  
KATHLEEN A. ZEBROWSKI  
Assistant United States Attorney

Sworn to before me this 15<sup>th</sup>  
day of August, 2007

  
NOTARY PUBLIC

HERMAN AMOS JR.  
Notary Public, State of New York  
No. 31-4961366  
Qualified in New York County  
Commission Expires Feb. 5, 2010

**EXHIBIT A**

[illegible]

**Equal Opportunity Lender Member FDIC**

PRIVATE LOANS DEPOSITED

**LOAN CONSOLIDATION APPLICATION AND PROMISSORY NOTE**

Guaranteed by: New York State Higher Education Services Corporation

**Caution:** Carefully read instructions.

Completed by applicant. Please type or print with a ball point pen.

Any person who knowingly makes a false statement or misrepresentation on this form is subject to penalties upon arrest, including fines or imprisonment under the United States Criminal Code and 28 USC 1863.

**PERSONAL INFORMATION**

JOHN SHORTALL, ESQ

**NAME (First, MI, Last)**

94 \*

SHAM, New York 12722

Page Number 308558 77741 731520

NEW YORK

**Name and Address:**

# THE 6 STUDY ESSAYS

# SEATTLE AVENUE

PLAINS N.Y. 10606

**Relationship of relative not living with you:**

SHORTALL

BUCKLEY STREET

NEW YORK 12150

1. *Chlorophyll a* and *Chlorophyll b* were determined by the method of Lichtenthaler and Whistler (1973).

794. 064C Evening 914, 292. 1477

065 54 590

100-443887-100

1-2-60

11-11-68

\_\_\_\_\_

914 948 229

914 753 773

\_\_\_\_\_

10-10-68

100

100-443887-100

# LEONARD

THE UNIVERSITY OF CHICAGO

100-107107-10

# TRAINING

\_\_\_\_\_

## STUDENT LOAN PROBLEMS

~~XXXXXXXXXXXX~~ wish to have consolidated

a. Name & Address	b. Account Number	c. Type of Loan (GSL/FHL/AGL/PL/BL/SL/BL/SL)	d. Current Balance Prin & Int	e. Interest Rate	f. Date of Payment
1. <u>AMERICAN EDUCATION</u>	<u>462816</u>	<u>GSL</u>	<u>10,000.00</u>	<u>11.5%</u>	<u>10/1/77</u>
2. <u>065 54 5901 001</u>	<u>462816</u>	<u>GSL</u>	<u>10,000.00</u>	<u>11.5%</u>	<u>10/1/77</u>
3. <u>1A2066 01704-000000</u>	<u>SL5</u>	<u>SL5</u>	<u>1,000.00</u>	<u>11.5%</u>	<u>10/1/77</u>
4. <u>065 54 5901 1</u>	<u>SL5/636</u>	<u>SL5/636</u>	<u>1,000.00</u>	<u>12.0%</u>	<u>10/1/77</u>
5. <u>065 54 5901 1</u>	<u>SL5/636</u>	<u>SL5/636</u>	<u>1,000.00</u>	<u>12.0%</u>	<u>10/1/77</u>
Totals			<u>13,000.00</u>		

83-73520  
I wish to have considered for purposes of determining my repayment schedule but that I do not wish to have  
DO NOT DUPLICATE LOANS LISTED IN ITEM 6)

[illegible]

10

REPAYMENT SCHEDULE  
☐ Level Payment Schedule ☒ Graduated Payment Schedule-if available

## SECTION II

11. Provide the name and address of the lender with whom you wish to have your loans consolidated, hereafter in this Loan Consolidation Application and Promissory Note referred to as the Consolidating Lender

## CONSOLIDATING LENDER

NORSTAR BANK OF CENTRAL NEW YORK AFSA LOAN CONSOLIDATION DEPARTMENT

Name

PO BOX 92286

Street Address and/or P.O. Box

100 AMHERST, CA 90004-2114

to be completed by Consolidating Lender

Signature of Authorized Lender's Official

Title

## SECTION V

## PROMISSORY NOTE AND BORROWER CERTIFICATION

## 12. PROMISE TO PAY AND BORROWER CERTIFICATION

FOR VALUE RECEIVED, I, THE UNDERSIGNED BORROWER, PROMISE TO PAY THE CONSOLIDATING LENDER OR SUBSEQUENT HOLDER OF THIS PROMISSORY NOTE ("NOTE"), SUCH LOAN AMOUNT AS ADVANCED IN MY BEHALF, PLUS AN AMOUNT EQUIVALENT TO SIMPLE INTEREST ON THIS LOAN AS SPECIFIED IN MY DISCLOSURE STATEMENT AND REPAYMENT SCHEDULE WHICH WILL BE PROVIDED TO ME AT THE TIME MY FORMER CREDITORS HAVE DISCHARGED MY OBLIGATION ON THE LOANS SELECTED FOR CONSOLIDATION. I WILL pay any of these amounts when they are due. I will pay all charges and other costs, including attorney's fees that are permitted by federal law and regulations for the collection of those amounts. If this loan is referred for collection to an agency that is subject to the Fair Debt Collection Practices Act, I will pay those collection costs to the extent authorized under such Act. I declare under penalty of perjury under the laws of the United States that the information provided on this application is true and correct. I WILL NOT SIGN THIS NOTE BEFORE READING IT, INCLUDING THE TERMS WHICH CONTINUE ON THE REVERSE SIDE, EVEN IF OTHERWISE ADVISED. I FURTHER CERTIFY THAT I AM NOT NOW IN DEFAULT ON A PERKINS LOAN (FORMERLY NATIONAL DEFENSE/DIRECT LOAN), OR A GUARANTEED STUDENT LOAN (INCLUDING FEDERALLY INSURED STUDENT LOAN), OR A SUPPLEMENTAL LOAN FOR STUDENTS (INCLUDING ALAS LOAN) THAT I HAVE SELECTED FOR CONSOLIDATION. I ALSO CERTIFY THAT I AM IN REPAYMENT STATUS OR IN A GRACE PERIOD PRECEDING REPAYMENT, AND NOT MORE THAN 90 DAYS DELINQUENT ON ANY OF THE LOANS LISTED ABOVE THAT I HAVE CHOSEN FOR CONSOLIDATION. IN ADDITION I CERTIFY THAT I HAVE NOT CONSOLIDATED LOAN APPLICATION PERIODING WITH ANOTHER LENDER. I HEREBY AUTHORIZE the holder(s) of any of my loans which make up the consolidation loan to pay the Consolidating Lender any refund which may be owed to me. I understand that my PLUS Loans may be refinanced at the current annual variable rate as determined by the Secretary of the United States Department of Education (hereafter called the Secretary) in accordance with the Higher Education Act of 1988, as amended (hereafter called the Act) as part of this consolidation. I am entitled to an exact copy of this note. By signing this note, I acknowledge that I understand and agree to its conditions and have received an exact copy hereof.

Borrower's Signature

Date

Social Security Number

WHITE LENDER YELLOW GUARANTOR PINK-BORROWER

**EXHIBIT B**



U. S. DEPARTMENT OF EDUCATION  
SAN FRANCISCO, CALIFORNIA

CERTIFICATE OF INDEBTEDNESS

Kevin J. Shortall  
AKA Kevin Shortall, Kevin J. Esquir  
512 Burlingham Rd.  
Mamakating, NY. 12722  
Account No. 065545901

I certify that Department of Education records show that the borrower named above is indebted to the United States in the amount stated below plus additional interest from May 16, 2007.

On or about November 30, 1991, the borrower executed a promissory note to secure a Federal Family Education Loan Program Consolidation loan from Norstar Bank, Los Angeles, CA. This loan was disbursed for \$35,909.07 on March 9, 1992, at 9.00 percent interest per annum. The loan obligation was guaranteed by New York State Higher Education Services Corporation and then reinsured by the Department of Education under loan guaranty programs authorized under Title IV-B of the Higher Education Act of 1965, as amended, 20 U.S.C. 1071 et seq. (34 C.F.R. Part 682). The holder demanded payment according to the terms of the note, and credited \$0.00 to the outstanding principal owed on the loan. The borrower defaulted on the obligation on February 23, 1997, and the holder filed a claim on the loan guarantee.

Due to this default, the guaranty agency paid a claim in the amount of \$48,019.80 to the holder. The guarantor was then reimbursed for that claim payment by the Department under its reinsurance agreement. Pursuant to 34 C.F.R. § 682.410(b)(4), once the guarantor pays on a default claim, the entire amount paid becomes due to the guarantor as principal. The guarantor attempted to collect the debt from the borrower. The guarantor was unable to collect the full amount due, and on November 22, 2003, assigned its right and title to the loan to the Department.

Since assignment of the loan, the Department has credited a total of \$0.00 in payments from all sources, including Treasury Department offsets, if any, to the balance. After application of these payments, the borrower now owes the United States the following:

Principal:	\$42,837.72
Interest:	\$32,085.25
Total debt as of May 16, 2007:	\$74,922.97

Interest accrues on the principal shown here at the rate of \$10.56 per day.

Pursuant to 28 U.S.C. § 1746(2), I certify under penalty of perjury that the foregoing is true and correct.

Executed on 06/13/07

  
Loan Analyst  
Litigation Support

**Delfin M. Reyes**  
**Loan Analyst**